

HOUSE BILL NO. 300

INTRODUCED BY MILBURN, ARNTZEN, BUTCHER

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE FALSE STATEMENT PROVISIONS BASED ON STATEMENTS MADE BY GOVERNMENTAL SOURCES RELATING TO AN APPLICATION FOR AN ALCOHOLIC BEVERAGE LICENSE; ~~REQUIRING THAT ANY ACTION ON A FALSE STATEMENT BE BROUGHT WITHIN 3 YEARS OF THE TIME OF THE STATEMENT;~~ AMENDING SECTION 16-4-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-402, MCA, is amended to read:

"16-4-402. Application -- investigation. (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

(i) the applicant is qualified to receive a license;

(ii) the applicant's premises are suitable for the carrying on of the business; and

(iii) the requirements of this code and the rules promulgated by the department are met and complied with.

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(2), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received

1 by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in
2 the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly
3 constructed. The basis for the tolling of the deadline must be documented.

4 (3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any
5 part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for
6 the license may be denied, and if issued, the license may be revoked.

7 (b) A statement on an application or at a hearing that is based upon an A VERIFIABLE assertion made by
8 a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the
9 basis of a false statement for a denial or revocation of a license.

10 ~~—— (c) A proceeding to revoke a license under subsection (3)(a) must be commenced within 3 years of the~~
11 ~~date on which the false statement was made.~~

12 (4) The department shall issue a conditional approval letter upon the last occurrence of either:

13 (a) completion of the investigation and determination provided for in subsection (2) if the department has
14 not received information that would cause the department to deny the application; or

15 (b) a final agency decision that either denies or dismisses a protest against the approval of an application
16 pursuant to 16-4-207.

17 (5) The conditional approval letter must state the reasons upon which the future denial of the application
18 may be based. The reasons for denial of the application after the issuance of the conditional approval letter are
19 as follows:

20 (a) there is false or erroneous information in the application;

21 (b) the premises are not approved by local building, health, or fire officials;

22 (c) there are physical changes to the premises that if known prior to the issuance of the conditional
23 approval letter would have constituted grounds for the denial of the application or denial of the issuance of the
24 conditional approval; or

25 (d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the
26 department's final agency decision provided for in subsection (4)."

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28 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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30 NEW SECTION. Section 3. Applicability. [This act] applies to license denial or revocation proceedings

1 that have been commenced but have not been finally adjudicated on [the effective date of this act].

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